

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Waiver of Universal Service High-Cost Filing Deadlines)	WC Docket No. 08-71
Connect America Fund)	WC Docket No. 10-90
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Guadalupe Valley Telephone Cooperative, Inc. (SAC #442083))	
Petition for Waiver of Section 54.1306(a)(3) Filing Deadline)	
For Submission to National Exchange Carrier Association of)	
Updated Section 54.1305 Information for the Calculation of)	
High Cost Loop Support)	

**PETITION FOR WAIVER OF SECTION 54.1306(a)(3) DEADLINE
FOR SUBMISSION OF UPDATED HIGH COST LOOP SUPPORT DATA**

Guadalupe Valley Telephone Cooperative, Inc. (“GVTC”; Study Area Code 442083), pursuant to Section 1.3 of the Commission’s Rules, requests waiver of the March 30, 2017 deadline established by Section 54.1306(a)(3) of the Rules for the filing with the National Exchange Carrier Association (“NECA”) of updated Section 54.1305 data for the period from October 1, 2015 to September 30, 2016 with respect to the calculation of High Cost Loop Support (“HCLS”).

During the late morning of Friday, March 31, 2017, GVTC’s cost consultants uploaded the five files for its Section 54.1306(a)(3) submission to the NECA portal designated for the receipt of such filings. The filing was successfully uploaded. However, later that day, GVTC’s cost consultant was notified by NECA that the filing “was uploaded today and the deadline was yesterday” and consequently “per NECA’s procedures, we can’t accept it” (Email correspondence attached as Exhibit A).

Good cause exists for the requested waiver because: (1) GVTC previously has had a perfect record of compliance with its Universal Service Fund (“USF”) filing requirements, and was only a (partial) day late with the subject Section 54.1306(a)(3) filing; (2) the circumstances of this situation are virtually identical to those addressed by the grace period and late filing penalties established in Sections 54.313(j) and 54.314(d) of the Rules with respect to annual USF filing deadlines; (3) grant of the requested waiver will have no significant adverse impact upon NECA’s calculation of HCLS support in the aggregate or for GVTC in particular; and (4) GVTC and its cost consultant have developed and are implementing additional procedures to ensure that all USF filing deadlines are met in the future with respect to the Commission, the Texas Commission, the Universal Service Administrative Company (“USAC”) and NECA.

I

Background

GVTC is a Texas cooperative that was founded in 1951 and is headquartered in Smithson Valley, Texas. It is a rural incumbent local exchange carrier (“RLEC”) that serves 15 exchanges (approximately 32,000 access lines) in south central Texas. Its member-customers are located in two separate areas – the Hill Country north of San Antonio and an area around Gonzales about ninety miles east of San Antonio.

GVTC is on the Rate of Return Path and operates on a cost basis. It has been an eligible telecommunications carrier (“ETC”) since the Telecommunications Act of 1996 was first implemented.

GVTC has approximately 225 employees, which makes it a small business under the 1,500-employee standard for Regulatory Flexibility Analysis purposes. As a small business, the potential

loss of \$392,088 in HCLS revenues in the absence of a waiver is bound to have an adverse impact upon GVTC's broadband investment and operations.

II

Good Cause Exists for Waiver of the Section 54.1306(a)(3) Deadline

Section 1.3 of the Rules permits Commission rules to be waived for good cause shown. The Commission or its Bureaus may exercise discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In addition, they may take into account considerations of hardship, equity, and the effective implementation of public policy on an individual basis. WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

A. Material and Substantial Compliance Efforts

The special circumstances supporting grant of the requested waiver begin with the material, substantial and timely efforts made by GVTC to comply with all previously applicable USF requirements and filing deadlines. GVTC has provided telephone service since the early 1950s and has been an ETC since the 1996 Act was implemented. Throughout this time period, GVTC has never been cited for a violation of the USF rules and has never previously missed a USF filing deadline.

GVTC's subject Section 54.1306(a)(3) filing was made about noon on March 31, 2017. Unfortunately, there was some confusion and the filing inadvertently was assumed to be due on the last day of March rather than on March 30. The filing was successfully uploaded by GVTC's cost

consultant at approximately 12:16 PM on March 31, 2017, and has been in NECA's possession since that time. However, later that day, NECA informed GVTC's consultant that the filing was submitted after the applicable March 30 deadline, and consequently will not be accepted and used by NECA without a waiver.

In previous proceedings, waivers of USF filing deadlines have been granted when the filings were made within 14 days of the deadline. See, for example, *Universal Service High Cost Filing Deadlines et al.*, Order, DA 08-2336, 23 FCC Rcd 15,325, 15,330 (Wireline Comp. Bur. 2008) (filing deadline waived where error promptly remedied by filing of required data within 14 business days after deadline); *Universal Service High Cost Filing Deadlines et al.*, Order, DA14-419, 29 FCC Rcd 3198, 3200-01 (Wireline Comp. Bur. 2014) (filing deadlines waived when required filings were made one to fourteen days after the deadline); *Petitions for Waiver of Universal Service High-Cost Filing Deadlines et al.*, Order, DA 10-107, 25 FCC Rcd 843, 854-55 (Wireline Comp. Bur. 2010) (filing deadlines waived when required filings were made one to fourteen days after the deadline); and *Federal-State Joint Board on Universal Service*, Order, DA 05-3290, 20 FCC Rcd 20,316, 20,317-18 (Wireline Comp. Bur. 2005) (filing deadline waived when filing was submitted five days after deadline).

GVTC's submission of its subject Section 54.1306(a)(3) filing to NECA at noontime on the day following the March 30 deadline lies well within the 14-day period that has long been recognized to constitute prompt correction of a missed USF filing deadline. In fact, GVTC's submission was made at the very beginning of the range found reasonable for waiver purposes – early on the day immediately following the deadline.

Hence, given GVTC's heretofore perfect record of timely USF filings with the Commission, USAC and NECA, it is clear that it has made substantial, material, timely, and good faith efforts to comply with its USF filing requirements and deadlines.

B. General Commission Rule Regarding Late Filed Annual Reports

While it does not explicitly address Section 54.1306(a)(3) and NECA filings, the general approach adopted in Sections 54.313(j) and 54.314(d) of the Rules to deal with missed certification and data submission deadlines for annual Section 54.313 and 54.314 reports provides an equitable way to deal with the present circumstances as well as all missed USF filing deadlines. Because GVTC has never previously missed a USF filing deadline and because it made its filing within three days of the March 30 deadline, GVTC would be entitled to the one-time grace period in Sections 54.313(j)(2) and 54.314(d)(2) of the Rules. And even if it did not qualify for the grace period, GVTC would be subject to the loss of only an amount equivalent to seven (7) days of the HCLS support at issue, and not the entire estimated amount of \$392,088 that appears to be in jeopardy.

GVTC is aware that Sections 54.313(j) and 54.314(d) apply to specific annual USF filings. However, the language in paragraphs 129 through 138 of *Connect America Fund*, Report and Order, 29 FCC Rcd 15,644 (2014), is sufficiently general that the approach could reasonably and equitably be applied to most or all missed USF filing deadline situations, including the present one.

C. No Adverse Impact on Universal Service Administration

NECA received GVTC's uploaded Section 54.1306(a)(3) files shortly after noon on March 31, 2017. As of that time, it would appear that NECA would have had time to do little more than very preliminary processing of the Section 54.1306(a)(3) filings that had been due the

previous day. NECA certainly would not have completed its calculations of national average unseparated loop cost per working loop and other HCLS data with respect to the March 30 Section 54.1306(a)(3) filings, and reported them to the Commission and USAC for some time thereafter. Even as of the present date or the date that the requested waiver is granted, the HCLS data for GVTC and any other entities with similar late Section 54.1306(a)(3) filings would not be expected to change materially any NECA calculations based upon the March 30, 2017 HCLS filings.

Hence, grant of GVTC's requested waiver will not adversely impact administration of the HCLS or other USF mechanisms.

D. Revision of Internal Procedures to Ensure Timely Future Filings

GVTC and its cost consultant will work together to implement new and additional internal procedures to ensure that the subject one-day filing delay will remain the only blemish on GVTC's past and future record of timely USF compliance. Both GVTC and its cost consultant will designate two employees as the primary and back-up officials responsible for timely GVTC compliance with all Commission, Texas Commission, USAC and NECA Universal Service filing requirements and deadlines. The assigned GVTC and cost consultant employees are compiling and checking lists of all required or potential USF filing requirements, and will use these lists to prepare, check and confirm an electronic calendar that will list and issue periodic reminders for each and every USF filing deadline with respect to the Commission, Texas Commission, USAC and NECA. Upon receipt of a reminder, the assigned GVTC and cost consultant employees will be responsible for communicating with each other by telephone, email or text to verify the filing deadline and designate the person or persons responsible for preparing, reviewing and making the filing. GVTC

and its cost consultant will review the electronic calendar at least twice a year to check for changes in required USF filings and for modifications of any filing deadlines.

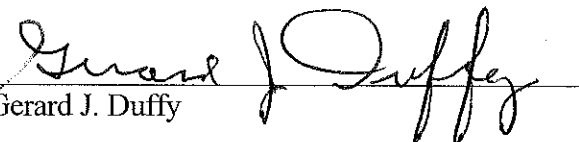
GVTC believes that these changes in its internal procedures will ensure that it will not miss any future USF filing deadlines.

III

Conclusion

Good cause, as well as considerations of hardship, equity, and the effective implementation of the Commission's universal service policies, warrant grant of GVTC's requested waiver of the Section 54.1306(a)(3) filing deadline. GVTC has a long and spotless record of compliance with USF filing requirements and deadlines prior to the subject March 30, 2017 incident. Even then, GVTC was only a single day late – which is well within the established guidelines for USF filing deadline waivers as well as within the grace period adopted for annual Section 54.313 and 54.314 filing deadlines. Grant of the requested waiver will not adversely impact NECA's calculation of HCLS data. Finally, GVTC has adopted internal procedures that will ensure its compliance with future USF filing deadlines.

Respectfully submitted,
GUADALUPE VALLY TELEPHONE COOPERATIVE, INC.

By 
Gerard J. Duffy

Its Attorney

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Dated: April 18, 2017

Exhibit A

Gerard J. Duffy

From: Chad Holzer <Chad.Holzer@mossadams.com>
Sent: Friday, March 31, 2017 2:52 PM
To: Robert Jacobs
Cc: Pattie Newton
Subject: Fwd: Automated confirmation e-mail regarding your recent NECA file upload

----- Forwarded message -----

From: "Chishti, Unsa" <uchishti@neca.org>
Date: Fri, Mar 31, 2017 at 11:51 AM -0700
Subject: FW: Automated confirmation e-mail regarding your recent NECA file upload
To: "Chad Holzer" <Chad.Holzer@mossadams.com>
Cc: "Humes, Joan" <jhumes@neca.org>

Hi Chad,

Since GVTC's USF 16-4 was uploaded today and the deadline was yesterday, per NECA's procedures, we can't accept it.

Thanks,

Unsa

Subject: RE: Automated confirmation e-mail regarding your recent NECA file upload

It was uploaded today.

442083_9-30-2015 Depr Exp.xlsx	3/31/2017 12:16 PM	Microsoft Excel W...	70 KB
442083_9-30-2015 TB.xlsx	3/31/2017 12:16 PM	Microsoft Excel W...	114 KB
442083_9-30-2016 Depr Exp.xlsx	3/31/2017 12:16 PM	Microsoft Excel W...	78 KB
442083_9-30-2016 TB.xlsx	3/31/2017 12:16 PM	Microsoft Excel W...	116 KB
442083_GVTC 2016-4 USF Filing.pdf	3/31/2017 12:16 PM	Adobe Acrobat D...	1,900 KB

-----Original Message-----
 From: WebsiteAdmin
 Sent: Friday, March 31, 2017 1:04 PM
 To: Chishti, Unsa <uchishti@neca.org>
 Cc: Humes, Joan <jhumes@neca.org>
 Subject: Automated confirmation e-mail regarding your recent NECA file upload

The following files have been successfully uploaded to \user\Common\Uploads for:

Study area: 442083

- 442083_9-30-2015 Depr Exp.xlsx
- 442083_9-30-2015 TB.xlsx
- 442083_9-30-2016 Depr Exp.xlsx
- 442083_9-30-2016 TB.xlsx
- 442083_GVTC 2016-4 USF Filing.pdf

The file name(s) reflected in the list above may be different than the uploaded file(s) if a file with the same name has already been sent to NECA

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